



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-252 Hazardous substance tax and petroleum product tax**

Date last reviewed: **March 9, 1999**

Current Reviewer: **Anne Solwick**

Date current review completed: **September 24, 2001**

Is this document being reviewed at this time because of a taxpayer or association request? (If "YES", provide the name of the taxpayer/association and a brief explanation of the issues raised in the request). YES ☐ NO ☒

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Briefly describe the subject matter of the rule(s):

WAC 458-20-252 explains the taxes that apply to the possession of hazardous substances and petroleum products in the state of Washington. It describes what products are subject to the tax, who is subject to the tax, how the value of the products is determined, how credits and exemptions are applied, and the method of payment.

2. Related statutes, interpretive statements, court decisions, BTA decisions, and WTDs:
(Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered interpretive statements.)

YES	NO	
	X	Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
X		Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?



X		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

BTA Docket Nos. 98-25 to 98-31. The BTA distinguished between propane derived from crude oil and propane derived from natural gas and found that propane derived from natural gas is not subject to the hazardous substance tax and the petroleum product tax.

BTA Docket No. 54723. The issue before the board was the requirements contained in the rule regarding the Certificate of Credit for Fuel Carried from the State in Fuel Tanks.

BTA Docket No. 55090. The issue before the board was the date quoted in statute referencing the federal law listing the items subject to the hazardous substance tax.

Det. 99-026, 17 WTD 126. The fuel-in-tank credit may be taken by someone other than the person who paid the tax. Clarifies that fungible hazardous substances stored out-of-state that arrive at the storage cite from various states including Washington and then a portion of which are later shipped to Washington should report the HST on a ratio of in-state production to out-of-state production.

Det. 99-026, 17 WTD 126. Jet fuel consumed in flights arriving in Washington from out of state is subject to the HST. Accord with Det. 97-017, 16 WTD 211 cited in the original rule review.

3. Additional information: Identify any additional issues (other than that noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

None.

4. LISTING OF DOCUMENTS REVIEWED: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive statements, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented:

Interpretive statements (e.g., ETAs and PTAs):

Court Decisions:



Board of Tax Appeals Decisions (BTAs):

- **BTA Docket Nos. 98-25 to 98-31**
- **BTA Docket No. 54723**
- **BTA Docket 55090**

Administrative Decisions (e.g., WTDs):

- **Det. 99-026, 17 WTD 126**

Attorney General's Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

4. Review Recommendation:

- ☒ **Amend**
- ☐ **Repeal** (Appropriate when repeal is not conditioned upon another rule-making action.)
- ☐ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- ☐ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

The previous rule review recommended revising the rule to incorporate information provided in two ancillary documents and three WTDs. I concur with that recommendation and further recommend that the issues identified in the BTA decisions and in 17 WTD 126 be addressed. One issue of that WTD has been appealed to the BTA; the Department is awaiting decision on the issue of fungible substances shipped out-of-state, co-mingled, and then a portion shipped back in.



5. Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

_____ 1
_____ 2
_____ 3
_____ 4